IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14049 of 2005

Between:

B. Swamy, S/o. Late Narasanna,
R/o. Kakileru Village, Iragavaram Mandal,

West Godavari District.

..... PETITIONER

AND

1 State of A.P.,

rep., by its the Asst. Registrar,

Endowment Department,
Eluru-534 001.

West Godavari District.
2 Sree Rameswara SwamyTemple,

Kakileru., rep. by its the Manager,
Kothapadu Group Temples,

Kottapadu, Tanuku Mandal,
West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an appropriate writ order or direction more particularly in the nature of Writ of Mandamus declaring the impugned notice bearing Nos. 28/05 and 32-05, dated 8.4.2005 issued under Rule 5 (1) of Rules 2003 under Act 30 of 1987 as arbitrary illegal capricious and violative of rights guaranteed to the petitioner herein under Rules 2003 and consequently direct the respondent herein not to dispossess the petitioner herein from the lands of Ac.7.44 cents in RS.No.130 of Kakileru village of Irgavaram Mandal and West Godavari District without completing the inquiry as to his status of landless poor by the 1st respondent herein.

Counsel for the Petitioner: Mr. SAI GANGADHAR CHAMARTY

Counsel for the Respondents: GP FOR ENDOWMENTS.

The Court, at the state of admission, made the following :

ORAL ORDER:

The petitioner was granted lease of agricultural lands of Sree Rameswara Swamy Temple, Kakileru, Kottapadu, Tanuku Mandal, West Godavari District, in an extent of Ac.2.22 cents. The petitioner's father was a lessee in an extent of Ac.5.22 cents. On the demise of his father the said extent of land, cultivated by him, was also in the cultivation of the petitioner and his name was incorporated in the records of the temple as a lessee of a total extent of Ac.7.44 cents. The 2nd respondent issued the impugned notices, dated 08-04-2005, informing the petitioner that the lease held by him expired by
2004-2005 and that he should hand over possession of the lands within thirty days from the date of receipt of notices which were received by the petitioner in the second week of April, 2005. Thereafter, the petitioner approached the 2nd respondent and requested continuation of the lease treating him as a landless poor person. Thereafter, by a written representation dated 21-04-2005, he laid a claim for being declared as a landless poor person for the benefits under Section 82(2) of the A.P.Charitable and Hindu Religious and Endowments Act, 1987 (for brevity, "the Act"). While so, on 26-06-2005, the 2nd respondent appears to have made a local announcement of auction of the leasehold rights of the subject temple lands.

2. The petitioner states that except these lands he owns no other lands and that his cultivation in an extent of Ac.2.22 cents of wet land given to him on his own should be treated as a distinct unit for the purpose of treating him as a landless poor person, ignoring the fact that he is also cultivating an extent of Ac.5.22 cents of wet land after the demise of his father and as a lessee. This would be a perverse construction of the provisions under Section 82(2) of the Act. The legislature has clearly intended that the benefits of a landless poor person should be confined to individuals who own or cultivate an extent not exceeding Ac.2.50 cents of wet land.

3. Admittedly, the petitioner is cultivating, as a tenant, an extent of Ac.7.44 cents of wet land and is therefore clearly ineligible to be declared or treated as a landless poor person. On the above analysis, the Writ Petition is misconceived as is the relief sought.

4. Accordingly, the Writ Petition is dismissed.

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(GODA RAGHURAM,J)

1st July, 2005.

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To

1 The Assistant Registrar,

State of A.P.,

Endowment Department,
Eluru-534 001.

West Godavari District.

2 The Managder,

Sree Rameswara SwamyTemple,

Kakileru.,

Kothapadu Group Temples,

Kottapadu, Tanuku Mandal,
West Godavari District.

3 Two CCs to the GP for Endowments,

High Court of A.P., Hyderabad (O.U.T.).

4 Two CD copies

5 One CC to MR.SAI GANGADHAR CHAMARTY